

Report on the

Board of Examiners in Counseling

State of Alabama

Montgomery, Alabama

October 1, 2018 through September 30, 2020

Filed: November 26, 2021



Department of Examiners of Public Accounts

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Rachel Laurie Riddle, Chief Examiner



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Honorable Rachel Laurie Riddle
Chief Examiner of Public Accounts
Montgomery, Alabama 36130

Dear Madam:

An examination was conducted on the Board of Examiners in Counseling, Montgomery, Alabama, for the period October 1, 2018 through September 30, 2020. Under the authority of the ***Code of Alabama 1975***, Section 41-5A-19, I hereby swear to and submit this report to you on the results of the examination.

Respectfully submitted,

Charnelle Martin
Examiner of Public Accounts

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Table of Contents

	<i>Page</i>
Summary	A
Contains items pertaining to state legal compliance.	
Schedule of State Legal Compliance and Other Findings	C
Contains detailed information about findings pertaining to state legal compliance and other findings.	
Exhibit #1 Schedule of Cash Receipts, Disbursements and Balances	1
Exhibit #2 Board Members and Officials – a listing of the Board Members and Officials.	2



Department of **Examiners of Public Accounts**

SUMMARY

Board of Examiners in Counseling October 1, 2018 through September 30, 2020

This report presents the results of an examination of the Board of Examiners in Counseling (the “Board”) and a review of the Board’s compliance with applicable laws and regulations of the State of Alabama. This examination was conducted in accordance with the requirements of the Department of Examiners of Public Accounts under the authority of the *Code of Alabama 1975*, Section 41-5A-12. Our examination was performed to determine whether the public officers, agents, and employees of the Board properly and lawfully accounted for all money and other public assets, or resources received, disbursed, or in the custody of the Board. Our examination included determining compliance by the Board with state laws and regulations that pertain to financial transactions; personnel; safeguarding of state-owned assets, property, and resources; information dissemination, processing, and retention; and official actions, rulemaking procedures, and meetings. As a part of our examination, we also reviewed internal control policies and procedures relating to the areas listed above. Our examination did not encompass managerial and operational matters, such as whether the Board accomplished its mission or its regulatory, enforcement, investigative, or other oversight activities in an efficient, fair, timely, or legal manner.

The Board operates under the authority of the *Code of Alabama 1975*, Sections 34-8A-1 through 34-8A-24. The Board is responsible for regulating the private practice of counseling in Alabama.

The Board is composed of seven members appointed by the Governor from a list of qualified candidates submitted by the Executive Committee of the Alabama Counseling Association, or its successor organization. The Board consists of two citizens from the general public, two counselor educators, and three counselors in private practice. Appointments shall be made so that not more than one member from any congressional district is appointed to serve at the same time. A college or university shall have only one counselor educator representative as a member of the Board at any one time. In addition, no more than one practitioner from the same practice setting or corporation shall be members of the Board at any one time. Board members serve five-year terms and are ineligible for reappointment for a period of three years following completion of their term.

The Executive Director, who is appointed by the Board, supervises the day-to-day operations of the Board. The Executive Director serves at the pleasure of the Board and is in the unclassified service of the State’s Merit System.

FINDINGS

The following instances of noncompliance with State laws and regulations and other matters were found during the examination as shown on the Schedule of State Legal Compliance and Other Findings and they are summarized below.

- ◆ 2020-001 Relates to the Board not providing documentation of yearly inventories conducted for all nonconsumable personal property valued at \$500 or more and sensitive items.
- ◆ 2020-002 Relates to the Board not notifying the Property Inventory Control Division of the State Auditor's Office in writing of the departure of the property manager or to request a check of the Board's inventory.
- ◆ 2020-003 Relates to the Board not depositing checks received in a timely manner.
- ◆ 2020-004 Relates to the Board not certifying deposits to the State Treasury in a timely manner.
- ◆ 2020-005 Relates to the Board not verifying an employee's employment eligibility through E-Verify by the third business day.
- ◆ 2020-006 Relates to the Board not amending an administrative rule for continuing education.
- ◆ 2020-007 Relates to the composition of the Board not complying with the statutes. This finding was reported in the prior examination as Finding 2018-002.
- ◆ 2020-008 Relates to the Board not having formal procedures in place to notify employees of the requirements of the Alabama Ethics Law. This finding was reported in the prior examination as Finding 2018-004.

EXIT CONFERENCE

Board members and the Executive Director were invited to an exit conference held by telephone on November 3, 2021. Individuals in attendance were Board members: Anna Barksdale, Dr. Latofia Parker, Dr. Jennifer Brown, Dr. Debra Atchison, and Dr. Robyn Trippany Simmons; Dr. Keith Cates, Executive Director; and Keith Warren, Administrative Director, along with Maria Catledge, Robin Hutcheson and Charnelle Martin from the Department of Examiners of Public Accounts.

*Schedule of State Legal
Compliance and Other Findings*

Schedule of State Legal Compliance and Other Findings

For the Examination Period Ended September 30, 2020

Ref. No.	Finding/Noncompliance
2020-001	<p><u>Finding:</u></p> <p>The Board could not provide documentation of annual inventories conducted for all nonconsumable personal property valued at \$500 or more, and for all items deemed sensitive. In addition, the Board could not provide copies of all inventories submitted to the Property Inventory Control Division in April and October each year. As a result, inventories could not be examined by the State Auditor's Office, Property Inventory Control Division, or the Department of Examiners of Public Accounts.</p> <p>The <i>Code of Alabama 1975</i>, Section 36-16-8 (1) states, "Except for books, the property manager shall make a full and complete inventory of all nonconsumable personal property and certain other items of personal property deemed important or sensitive enough by the Property Inventory Control Division to be included in the inventory of state property of the value of five hundred dollars (\$500) or more owned by the state and used or acquired by the department or agency. The inventory shall show the complete description, manufacturer's serial number, cost price, date of purchase, location, and custodial agency, responsible officer, or employee, and the state property control marking. <i>A copy of the inventory shall be submitted to the Property Inventory Control Division on October 1 and April 1 of each year.</i>" All property managers <i>shall keep at all times in their files</i> a copy of all inventories submitted to the Property Inventory Control Division, and the copies shall be subject to examination by any and all state auditors or employees of the Department of Examiners of Public Accounts."</p> <p><u>Recommendation:</u></p> <p>The Board should retain copies of all inventories conducted and submitted to the Property Inventory Control Division on October 1 and April 1 of each year.</p>

Schedule of State Legal Compliance and Other Findings

For the Examination Period Ended September 30, 2020

Ref. No.	Finding/Noncompliance
2020-002	<p><u>Finding:</u></p> <p>The Board did not notify the Property Inventory Control Division of the State Auditor's Office in writing of the departure of its property manager or request the Division to check all the agency's inventory. According to the Auditor's Office property inventory listing and our physical review of the Board's property, nine property items consisting of a laptop, computers, printer, furniture, and office equipment valued at \$16,554.92 were missing. The Board could not locate the property and there was no documentation to indicate that the items were disposed of. The former property manager's final pay was not withheld until the final check of the property was made and approved. As a result, the property manager was not held accountable for the missing property items.</p> <p>The <i>Code of Alabama 1975</i>, Section 36-16-8(6), states "Whenever any property manager ceases for any reason to be the property manager of his or her department or agency, the director of the department or agency shall immediately notify in writing the Property Inventory Control Division. The division shall immediately check the inventories of all property in the department or agency, and the successor to the property manager shall execute a written receipt for all property received by him or her or coming into his or her custody or control. The last payment of salary due the property manager shall be withheld until a complete check of the inventory of the property has been made and approved. In the event of any shortages, the property manager shall be held strictly accountable."</p> <p><u>Recommendation:</u></p> <p>The Board should notify the Property Inventory Control Division of the State Auditor's Office in writing when the property manager ceases for any reason to be the property manager and request a check of the agency's inventories. The Board should recover the missing items.</p>

Schedule of State Legal Compliance and Other Findings

For the Examination Period Ended September 30, 2020

Ref. No.	Finding/Noncompliance
2020-003	<p><u>Finding:</u></p> <p>The Board did not deposit checks received in a timely manner. One hundred and fifteen checks out of 1,578 checks were deposited fourteen to eighteen business days after they were received. Failure to promptly deposit checks and money orders in a timely manner unnecessarily increases the risk of loss or misuse of state funds.</p> <p>The <i>Code of Alabama 1975</i>, Section 34-8A-6, give the Board the authority to collect and deposit fees into the State Treasury. Therefore, to fulfill this responsibility, it is incumbent upon the management of the Board to establish, implement, and maintain policies and procedures to ensure that money collected is deposited in a timely manner.</p> <p><u>Recommendation:</u></p> <p>The Board should establish, implement, and maintain policies and procedures to ensure that money collected is deposited in a timely manner.</p>
2020-004	<p><u>Finding:</u></p> <p>The Board did not certify bank deposits and monies that were electronically remitted to the State Treasurer's Office in a timely manner. Fifty-six deposits consisting of 1,610 checks and money orders were reviewed. Twenty-six of the deposits were certified 31 to 101 days after they were deposited or electronically remitted. As a result, funds were not readily available for the agency's use.</p> <p>According to the State Treasurer's Office, "When monies are deposited or electronically remitted to a Treasury bank account, the state agency receiving the monies should certify the amount with a cash receipt document within 30 days."</p> <p><u>Recommendation:</u></p> <p>The Board should certify all monies that are deposited to a Treasury bank account or remitted electronically within 30 days to the State Treasurer.</p>

Schedule of State Legal Compliance and Other Findings

For the Examination Period Ended September 30, 2020

Ref. No.	Finding/Noncompliance
2020-005	<p><u>Finding:</u></p> <p>The Board did not verify an employee's employment eligibility through E-Verify by the third business day after the employee started work for pay. The employee's employment eligibility was E-Verified, seven business days after the employee started work for pay. As a result of the Board not verifying an employee's employment eligibility through E-Verify within 3 days of starting work, the Board could hire and employ an unauthorized alien.</p> <p>The <i>Code of Alabama 1975</i>, Section 31-13-15(b) states, "Effective April 1, 2012, every business entity or employer in this state shall enroll in E-Verify and thereafter, <i>according to federal statutes and regulations governing E-Verify, shall verify employment eligibility of the employee through E-Verify.</i>"</p> <p>Furthermore, the E-Verify Manual Chapter 2 Section 2 states, "E-Verify cases must be created no later than the third business day after the employee starts work for pay."</p> <p><u>Recommendation:</u></p> <p>The Board should E-Verify new employees within three business days of the employee's first day of employment.</p>

Schedule of State Legal Compliance and Other Findings

For the Examination Period Ended September 30, 2020

Ref. No.	Finding/Noncompliance
2020-006	<p><u>Finding:</u></p> <p>The Board approved allowing licensees to obtain all continuing education hours virtually and to allow Supervising Counselors to supervise Associate Licensed Counselors (ALC) virtually without amending the administrative rules setting the requirements for obtaining continuing education. As a result, the Board was not in compliance with the Administrative Procedure Act for amending administrative rules.</p> <p><i>Administrative Rule</i> 255-X-7-.01 (e) states, “Effective August 1, 2011, a <i>minimum of seventy-five percent</i> (75%) of the continuing education activities required for any licensure renewal period <i>must</i> consist of real-time participation in seminars, classes, workshops, presentations, training programs, or similar activities.”</p> <p><i>Administrative Rule</i> 255-X-3-.02 (4)(a) states, “Applicants for associate licensed counselor must furnish to the Board, on a form approved by the Board, a plan for supervision by a Supervising Counselor. The hours of supervision listed in the plan for supervision are to be provided by the Supervising Counselor whose signature appears on the document. The Supervising Counselor <i>must personally</i> provide to the ALC a minimum of one hundred (100) total hours of supervision annually to include <u>a minimum of fifty (50) of one-to-one, face-to-face</u>, personal individual supervision. Supervision provided for a period of time less than a full year must be a minimum weekly average of two (2) hours <i>which must include</i> at least fifty percent (50%) of one-to-one, face-to-face personal individual supervision.”</p> <p><u>Recommendation:</u></p> <p>The Board should not change the requirements of its administrative rules without formally amending them.</p>

Schedule of State Legal Compliance and Other Findings

For the Examination Period Ended September 30, 2020

Ref. No.	Finding/Noncompliance
2020-007	<p><u>Finding:</u></p> <p>The composition of the Board does not comply with the statute. Currently the Board has two members appointed from Congressional District 3, two members appointed from Congressional District 4 and two members appointed from Congressional District 6. As a result of appointing more than one member from a congressional district, some congressional districts were overrepresented and some congressional districts are not represented on the Board. This finding was reported in the prior examination as Finding 2018-002.</p> <p>The <i>Code of Alabama 1975</i>, Section 34-8A-4(f) states, "...After March 26, 2012, appointments shall be made so that not more than one board member from any congressional district may be appointed to serve at the same time."</p> <p><u>Recommendation:</u></p> <p>The Board should ensure that board member appointments comply with the <i>Code of Alabama 1975</i>, Section 34-8A-4(f).</p>
2020-008	<p><u>Finding:</u></p> <p>The Board has no formal procedures in place to notify employees and applicants for employment of the requirements of the Ethics Law that prohibit a condition in which an employee of a regulatory agency is licensed by the agency, or has a family member who is an officer, owner, partner, board of director member, employee, or holder of more than five percent of the fair market value of a business regulated by the agency. This finding was reported in the prior examination as Finding 2018-004.</p> <p>The <i>Code of Alabama 1975</i>, Section 36-25-9(a) states, "Unless expressly provided otherwise by law, no person shall serve as a member or employee of a state, county, or municipal regulatory board or commission or other body that regulates any business with which he is associated."</p> <p><u>Recommendation:</u></p> <p>The Board should create formal procedures to notify employees and applicants for employment of the requirements of the Alabama Ethics Law.</p>

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Schedule of Cash Receipts, Disbursements and Balances
For the Period October 1, 2018 through September 30, 2020

	2019-2020	2018-2019
<u>Receipts</u>		
License and Permits	\$ 490,730.00	\$ 554,670.00
Miscellaneous Fees-Not Otherwise Classified	13,141.40	8,985.00
Professional/Occupational Board Penalties		10,750.00
Bad Check Penalties	30.00	90.00
Reimbursements Not Otherwise Classified		1,632.30
Total	<u>503,901.40</u>	<u>576,127.30</u>
<u>Disbursements</u>		
Personnel Costs	157,821.08	212,526.54
Employee Benefits	63,963.62	69,885.53
Travel, In-State	6,520.01	7,996.57
Rentals and Leases	29,777.51	33,784.99
Utilities and Communications	6,326.98	8,619.52
Professional Services	10,872.28	31,254.95
Supplies, Materials and Operating Expenses	7,975.19	10,819.38
Total	<u>283,256.67</u>	<u>374,887.48</u>
Excess of Receipts Over Disbursements	220,644.73	201,239.82
Cash Balances at Beginning of Year	<u>2,214,513.77</u>	<u>2,013,273.95</u>
Cash Balances at End of Year	2,435,158.50	2,214,513.77
Reserved for Unpaid Obligations	<u>(52,397.94)</u>	<u>(37,677.37)</u>
Available Cash Balances at End of Year	<u>\$ 2,382,760.56</u>	<u>\$ 2,176,836.40</u>

Board Members and Officials
October 1, 2018 through September 30, 2020

Board Members		Term Expires
Hon. Anna Barksdale	Chair	2022
Hon. Latofia Parker, Ph.D.	Member	2022
Hon. Jennifer Brown, Ed.D.	Member	2022
Hon. Debra H. Atchison, Ed.D.	Member	2024
Hon. Karole K. Ohme	Member	2021
Hon. Sheila Webb, Ed.D.	Member	2024
Hon. Keith Cates, Ph.D.	Member	2021 (1)
Hon. Oswaldo Hector Chavez	Member	2019
Hon. Lynn Rice	Member	2019

Officials

Gary Williams	Executive Director 2777 Zelda Road Montgomery, AL 36106	August 2020
Florence Hemphill	Executive Director	December 2018

(1) Resigned September 2020